

ESTTA Tracking number: **ESTTA527518**

Filing date: **03/19/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|--|
| Name | World Award LLC |
| Granted to Date of previous extension | 03/20/2013 |
| Address | 1500 G Tiburon BLVD, Suite 639 Tiburon, CA 94920 UNITED STATES |

| | |
|----------------------|--|
| Attorney information | Georgiy L. Khayet 2225 East Bayshore Road, Suite 200 Palo Alto, CA 94303 UNITED STATES gkhayet@patentjurist.com Phone:(650) 646-4020 |
|----------------------|--|

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 85470004 | Publication date | 11/20/2012 |
| Opposition Filing Date | 03/19/2013 | Opposition Period Ends | 03/20/2013 |
| Applicant | Paymentwall Inc. Penthouse Suite 564 Market St. San Francisco, CA 94104 UNITED STATES | | |

Goods/Services Affected by Opposition

| |
|--|
| Class 036. First Use: 2011/10/10 First Use In Commerce: 2011/10/10 All goods and services in the class are opposed, namely: Bill payment services; Financial transaction services, namely, providing secure mobile payment processing for digital goods and services over the Internet for others; credit card services and credit card payment processing services; electronic foreign exchange payment processing; merchant services in the nature of payment processing services, namely, providing payment transaction processing for digital goods and services for others over the Internet |
|--|

Grounds for Opposition

| | |
|-------|--------------------------------------|
| Other | Priority and likelihood of confusion |
|-------|--------------------------------------|

| | |
|-------------|--|
| Attachments | notice_of_opposition_mobilepay.pdf (15 pages)(608843 bytes) |
|-------------|--|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

| | |
|-----------|-------------------|
| Signature | /Georgiy Khayet/ |
| Name | Georgiy L. Khayet |
| Date | 03/19/2013 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 85470004

For the mark MOBILEPAY+

Published in the Official Gazette on Nov 20, 2012

| | | |
|--------------------------------------|---|---------------------------------|
| World Award LLC, |) | OPPOSITION No. : to be assigned |
| a Delaware limited liability company |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | |
| |) | |
| Paymentwall Inc., |) | |
| a California corporation, |) | |
| |) | |
| Applicant |) | |

NOTICE OF OPPOSITION

Opposer, World Award LLC, a limited liability company organized under laws of Delaware, having a principal place of business located at 1500 G Tiburon BLVD, Suite 639, Tiburon, CA 94920, UNITED STATES.

The above-identified Opposer believes that it will be damaged by registration of the mark MobilePay+, Serial No. 85470004 for “Bill payment services; Financial transaction services, namely, providing secure mobile payment processing for digital goods and services over the Internet for others; credit card services and credit card payment processing services; electronic foreign exchange payment processing; merchant services in

the nature of payment processing services, namely, providing payment transaction processing for digital goods and services for others over the Internet” in international Class 36.

The grounds for opposition are as follows:

1. On information and belief, Applicant, Paymentwall Inc. is a California corporation with its principal place of business at Penthouse Suite 564 Market St., San Francisco, California 94104

2. On November 10, 2011, Applicant filed an application to register “MOBILEPAY+” based on actual use in commerce in “Bill payment services; providing electronic mobile payment services for others; credit card and payment processing services; electronic foreign exchange payment processing; payment processing services, namely, providing virtual currency transaction processing services for others” in international class 036.

3. Applicant alleged its date of first use of the mark in commerce as early as October 10, 2011.

4. The application for the Applicant mark was published for the opposition in the Official Gazette on November 20, 2012.

5. Opposer, World Award LLC, was registered as a Delaware limited liability company on February 14, 2011 (please, see Exhibit A) to operate the World Award Academy of Arts and Sciences.

6. The World Award Academy of Arts and Sciences was established by the Iamel Foundation in 1999 as a network of excellent fellows from diverse cultures, nationalities in the arts, humanities, science, and sports. The Academy is also an independent research center which explores complex and emerging global problems (please, see Exhibit B).

7. The Iamel Foundation was registered as non-profit organization in Delaware on February 29, 2000 (please, see Exhibit C).

8. The <http://www.worldawardacademy.org> became operational on January 27, 2011.

9. The World Award Academy of Arts and Sciences as a research center has been handling a few global major developments such as MOBILE PAYMENTS (please, see Exhibit D).

10. The World Award Academy of Arts and Sciences involves research and development in MOBILEPAY+cash back, MOBILEPAY+rewards, MOBILEPAY+free mobiles, MOBILEPAY+credits, MOBILEPAY+free monthly charge, MOBILEPAY+free repair, MOBILEPAY+paperless, MOBILEPAY+contact less, MOBILEPAY+free change of mobiles (please, see Exhibit D).

11. The founders of World Award Academy of Arts and Sciences have more than ten patents pending in the USA and other countries relating to development in mobile payments.

12. Opposer began using MOBILEPAY+ mark on January 27, 2011, which is an earlier date than the alleged first date of use by Applicant. Since Opposer is the senior user of the MobilePay+, any likelihood of confusion, mistake, or deception is due to the Applicant's junior use of its MobilePay+ mark.

13. Since its creation, Opposer has used its MobilePay+ mark in connection with the above mention research and services offered in interstate communication to prospective customers as early as January 27, 2011.

14. By virtue of this use, customers identify MobilePay+ mark as originating exclusively from the Opposer. Opposer has invested considerable time, effort, and expense in the developing and marketing of its services under MobilePay+, and continues to do so.

15. Because Opposer has used its MobilePay+ mark to advertise and sell its services in interstate commerce prior to the filing date and the alleged dates of first use claimed in Application, Opposer owns common law rights in and to its MobilePay+ mark.

16. Applicant's mark MopbilePay+ is identical to the opposer's MobilePay+ mark in sound and meaning. The Applicant's registration and use of the MobilePay+ mark would likely to create confusion, mistake, or deception in the minds of potential customers as to the origin source of Opposer's services associated with MobilePay+ mark because purchasers familiar with the Opposer's services are likely to mistakenly believe that the Applicant's services are sponsored by, authorized, endorsed, affiliated with or otherwise approved by the Opposer.

17. The Applicant's services are closely related to and/or the natural zone of expansion of Opposer's services. The Opposer services are advertised on Opposer's website.

18. The Opposer's services and the Applicant's services travel in the same channels of trade and are viewed by the same customers.

19. Because Applicant's mark has the same meaning and presents the same commercial impression as Opposer's MobilePay+ mark when used in commerce, the registration sought by Applicant is contrary to the provisions of Section 2 of the Lanham Act, and Opposer believes that it would be damaged thereby.

WHEREFORE, Opposer believes that it will be damaged by the registration of Opposer's mark and prays that Applicant's application be denied.

Please recognize as attorney for Opposer

Georgiy L. Khayet
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

Please address all communications to Georgiy L. Khayet at the address set forth below.

The official fee is submitted herewith.

Respectfully submitted,

Dated: March 19, 2013

By: /Georgiy Khayet/

Georgiy L. Khayet
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303
Phone: (650) 646-4020
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E-mail: gkhayet@patentjurist.com

EXHIBIT A



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Entity Details

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| | | | |
|---------------------|--|---|-----------------------------------|
| <u>File Number:</u> | 4939867 | <u>Incorporation Date / Formation Date:</u> | 02/14/2011 (mm/dd/yyyy) |
| <u>Entity Name:</u> | WORLD AWARD LLC | | |
| <u>Entity Kind:</u> | LIMITED LIABILITY COMPANY (LLC) | <u>Entity Type:</u> | GENERAL |
| <u>Residency:</u> | DOMESTIC | <u>State:</u> | DE |

REGISTERED AGENT INFORMATION

| | | | |
|-----------------|------------------------------------|---------------------|-------------------|
| <u>Name:</u> | THE COMPANY CORPORATION | | |
| <u>Address:</u> | 2711 CENTERVILLE RD STE 400 | | |
| <u>City:</u> | WILMINGTON | <u>County:</u> | NEW CASTLE |
| <u>State:</u> | DE | <u>Postal Code:</u> | 19808 |
| <u>Phone:</u> | (302)636-5440 | | |

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

Would you like ☐ Status ☐ Status, Tax & History Information

To contact a Delaware Online Agent [click here](#).

EXHIBIT B

World Award Academy of Arts & Sciences



Welcome to World Award Academy

The World Award Academy of Arts and Sciences was established by the **Imel Foundation** in 1999 as a network of excellent fellows from diverse cultures, nationalities in the arts, humanities, science, sports and the Internet. The Academy is also an independent research center which explores complex and emerging global problems.

The Academy's elected members are world leaders in the social and natural sciences, the arts, government, business, sports and public affairs. The academy has three major global goals.

1. Honoring excellence by allowing people of the world to vote for men and women in a broad range of disciplines and professions.
2. Promoting the study and science of global issues and common concerns.
3. Electing scientists, public affairs leaders, business leaders, artists, philanthropic leaders, etc. to join this prestigious society.

We welcome your visit and look forward to growing our organization with your help, support and concerns.

NOMINATE A CANDIDATE NOW!

Welcome to World Award Academy Blog!

Tuesday, February 01, 2011

Our mission has begun - to create a world forum where the best of the best are nominated to win up to \$2 Million in prizes along with a global ceremony to give them more recognition and credibility in their community of expertise.

[Comments \(1913\)](#) | [Trackbacks \(0\)](#) | [Permalink](#)

Nominate World Award Contestants

Tuesday, February 01, 2011

World Award's first annual contest is about to begin. Help us to showcase the best people we can to make this award meaningful and to give the nominee additional credibility. [CLICK HERE to nominate someone great.](#)

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EXHIBIT C



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Entity Details

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| | | | |
|---------------------|------------------------------|---|-----------------------------------|
| <u>File Number:</u> | 3338408 | <u>Incorporation Date / Formation Date:</u> | 12/29/2000 (mm/dd/yyyy) |
| <u>Entity Name:</u> | IAMEL FOUNDATION INC. | | |
| <u>Entity Kind:</u> | CORPORATION | <u>Entity Type:</u> | NON-PROFIT OR RELIGIOUS |
| <u>Residency:</u> | DOMESTIC | <u>State:</u> | DE |

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| | | | |
|-----------------|------------------------------------|---------------------|-------------------|
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| <u>Address:</u> | 2711 CENTERVILLE RD STE 400 | | |
| <u>City:</u> | WILMINGTON | <u>County:</u> | NEW CASTLE |
| <u>State:</u> | DE | <u>Postal Code:</u> | 19808 |
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EXHIBIT D

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About Us

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MOBILEPAY+paperless, MOBILEPAY+contact less, MOBILEPAY+free change of mobiles. Stay tuned for further updates about this project.

We welcome your visit and look forward to growing our organization with your help, support and concerns.

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Our mission has begun - to create a world forum where the best of the best are nominated to win up to \$2 Million in prizes along with a global ceremony to give them more recognition and credibility in their community of expertise.

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